

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

WYNDHAM VACATION RESORTS, INC.,)
)
Plaintiff,)
)
v.)
)
THE CONSULTANT GROUP, SMOKEY)
MOUNTAIN GETAWAYS, LLC, MOUNTAIN)
GETAWAYS, LLC, JEFF EARLE, SUPERIOR)
VACATIONS, INC. d/b/a SUPERIOR)
TIMESHARE CLOSING, RAY SPIGNER,)
MICHAEL DEAN SPIGNER, CHARLES)
SIMERKA, JUDITH McGINTY, DANIEL)
GARRETT, and CHRISTAL FRANKLIN,)
)
Defendants.)

MEMORANDUM & ORDER

Between November 19, 2012 and January 28, 2013, attorney Gregory Oakley, who worked for the law firm of DHPM, PC (“DHPM”) at the time, filed Notices of Appearance on behalf of defendants The Consultant Group (“TCG”), Ray Spigner, and Michael Dean Spigner (Docket No. 5), Judith McGinty (Docket No. 17), and Superior Vacations, Inc. and Superior Timeshare Closing (“Superior”) (Docket No. 31). On February 29, 2013, attorney Brian Walthart, who also worked for DHPM at the time, filed a Notice of Appearance of behalf of defendants TCG, Ray Spigner, Michael Dean Spigner, Superior, and Judith McGinty. (Docket No. 43.) It appears that, at some point between October 10, 2013 and October 15, 2013, attorney Oakley switched law firms to Oakley Rieger PLLC. It also appears that attorney Walthart switched firms to Leitner, Williams, Dooley & Napolitan, PLLC.

On May 30, 2014, attorney Oakley filed a Motion to Withdraw, stating that an irremediable conflict of interest had arisen among some of his clients, that he could not continue

to represent them, that the clients consented to his withdrawal as their counsel, that he was working with them to obtain new counsel, and that the parties “expect to secure substitute representation shortly.” (Docket No. 228.) The court granted the motion on June 2, 2014. (Docket No. 230.) Attorney Walthart did not file a corresponding motion seeking to withdraw, which the court presumes was an oversight.

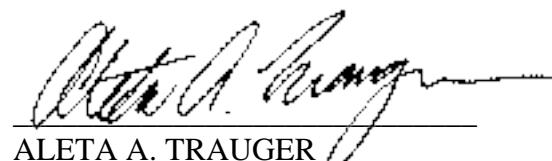
On June 17 and July 8, 2014, attorneys at the law firm of McKellar Hyde, PLC filed appearances on behalf of TCG and the Spigners. (Docket Nos. 236 and 247.) Subsequent to Mr. Oakley’s withdrawal, no attorneys have appeared on behalf of Superior or individual defendants Garrett and Franklin.

By July 24, 2014, attorney Walthart shall file a clarification of his status as counsel for one or more parties in this case or, if appropriate, a Motion to Withdraw. Assuming that attorney Walthart no longer represents Superior, Superior has until August 1, 2014 to have counsel file an appearance on its own behalf. *See Doherty v. Am. Motors Corp.*, 728 F.2d 334 (6th Cir. 1984) (“The rule of this circuit is that a corporation cannot appear in federal court except through an attorney.”) Failure to do so will result in a default judgment.

The Clerk is directed to forward a copy of this Order to attorney Walhart.

It is so **ORDERED**.

Enter this 17th day of July 2014.



ALETA A. TRAUGER
United States District Judge